

# UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

V.

## CRIMINAL COMPLAINT

Neclaudio Tavares Pinho,  
a/k/a Neclaudio De Pinho Tavares  
YOB 1963  
22 Briarwood Lane, Apt. 11  
Marlborough, MA 01752-2504

M.J. No. 04-M-00061-LPC

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about December 19, 2001 in Essex county, in the District of Massachusetts defendant,

did willfully, knowingly, and with intent to deceive, use a social security account number, assigned by the Commissioner of Social Security on the basis of the false information furnished to the Commissioner of Social Security by PINHO and other persons on his behalf, to apply for and to obtain a Massachusetts driver's license

in violation of Title 42 United States Code, Section 408(a)(7)(A).

I further state that I am a(n) Special Agent of the U.S. Social Security Administration  
Official Title

and that this complaint is based upon the following facts:

See Affidavit attached hereto and incorporated by reference herein.

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No

Signature of Complainant

Vance Ely

Special Agent

U.S. Social Security Administration

Sworn to before me and subscribed in my presence,

August 31, 2004

Date

at Boston, Massachusetts

City and State

LAWRENCE P. COHEN  
U.S. Magistrate Judge

Name and Title of Judicial Officer

Lawrence P. Cohen  
Signature of Judicial Officer

AFFIDAVIT OF SPECIAL AGENT VANCE ELY

I, Vance Ely, having been duly sworn, do hereby depose and state as follows:

1. I have been a Special Agent with the United States Social Security Administration ("SSA"), Office of the Inspector General, Office of Investigations, Boston Field Office since May 1997. My duties include investigating violations of Title 42 and Title 18 of the United States Code. During the period of my employment, I have conducted numerous investigations of Social Security fraud and other criminal violations. I was previously employed by the United States Department of Justice, Immigration & Naturalization Service, as an Immigration Inspector for 4 ½ years. I also hold a Bachelor of Science degree from Westfield State College.

2. SSA is an agency within the Executive Branch of the United States government responsible for approving applications for Social Security Numbers ("SSNs") and issuing Social Security Number Cards ("SSNCs") to eligible applicants, as well as managing and administering retirement, disability, survivor benefits, and Supplemental Security Income programs to our nation's eligible beneficiaries.

3. The Social Security Act (42 U.S.C. 301 et seq.) was enacted in 1935 to provide for the general welfare by establishing a system of Federal Benefits. The SSN, a nine-digit number, was devised as a means to keep track of the earnings of individuals who work under covered employment. Along with the SSN, the SSNC was created. SSNCs are issued with or without employment restrictions depending upon the eligibility of the individual making application. The SSNC bears an SSN; shows the name of the person whose record is identified by that SSN; and contains a space for the person's signature.

4. The information set forth in this affidavit is based on my own investigation, my review of relevant SSA records, and information provided by others. This affidavit does not contain all information received during the course of the investigation but contains those facts that I believe are necessary and sufficient to establish probable cause for the issuance of the requested criminal complaint charging Neclaudio Tavares Pinho, a/k/a Necaludio De Pinho Tavares, YOB 1963 ("PINHO") with social security account number fraud in violation of 42 U.S.C. §408(a)(7)(A)<sup>1</sup>.

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<sup>1</sup>42 U.S.C. §408(a)(7)(A) reads in pertinent part:

Whoever . . . for any other purpose -

(A) willfully, knowingly, and with intent to deceive, uses a social security account number, assigned by the Commissioner of Social Security . . . on the basis of

5. PINHO is a native and citizen of Brazil and, according to records maintained by Immigration and Customs Enforcement, he is not present legally in the United States.

6. As an alien illegally present in the United States, PINHO is not entitled to receive an SSNC.

7. On November 14, 2001, PINHO applied for an SSNC. PINHO falsely represented on the application, known as an SS-5, that he was a "Legal Alien Allowed to Work", knowing that, in truth and in fact, he was not.<sup>2</sup>

8. As a result of providing false information, PINHO received SSN 033-84-7388.

9. The Massachusetts Registry of Motor Vehicles ("RMV") requires that an individual applying for a driver's license present proof of identification such as a valid SSN.

10. On December 19, 2001, PINHO applied for a

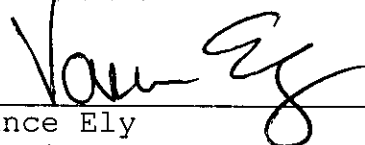
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false information furnished to the Commissioner of Social Security by him or by any other person [shall be guilty of a crime].

<sup>2</sup>Defendant's SS-5 application was processed by former SSA employee Jesse Rocha. On September 8, 2003, Jesse Rocha pled guilty to conspiracy to commit fraud in connection with identification documents in violation of 18 U.S.C. §1028(f); conspiracy to commit offenses against the United States in violation of 18 U.S.C. §371; conspiracy to launder monetary instruments in violation of 18 U.S.C. §1956(h) and fraud and misuse of documents in violation of 18 U.S.C. §1546(a). During his plea colloquy, Rocha admitted to processing and approving over 1700 applications for SSNCs for illegal aliens during the period from April of 2000 until December of 2002. See Ind. 02-10405-GAO.

Massachusetts driver's license. On the application, PINHO used the SSN which he had fraudulently obtained by providing the SSN to the RMV. As a result, a Massachusetts driver's license was issued to PINHO.

11. Based upon the foregoing information, I believe there is probable cause to believe that on or about December 19, 2001, PINHO did willfully, knowingly, and with intent to deceive, use a social security account number, assigned by the Commissioner of Social Security on the basis of the false information furnished to the Commissioner of Social Security by PINHO and other persons on his behalf, to apply for and to obtain a Massachusetts driver's license, in violation of Title 42, United States Code, Section 408(a)(7)(A).

  
Vance Ely  
Special Agent  
United States Social Security  
Administration  
Office of Inspector General

Subscribed and sworn to before me this 31st day of August 2004.

  
LAWRENCE P. COHEN  
UNITED STATES MAGISTRATE JUDGE

**Criminal Case Cover Sheet****U.S. District Court - District of Massachusetts**Place of Offense: \_\_\_\_\_ Category No. II Investigating Agency SSACity Beverly Related Case Information:County Essex Superseding Ind./ Inf. \_\_\_\_\_ Case No. \_\_\_\_\_  
Same Defendant \_\_\_\_\_ New Defendant \_\_\_\_\_  
Magistrate Judge Case Number \_\_\_\_\_  
Search Warrant Case Number \_\_\_\_\_  
R 20/R 40 from District of \_\_\_\_\_**Defendant Information:**Defendant Name Neclaudio Tavares Pinho Juvenile: ☐ Yes ☒ NoAlias Name Neclaudio De Pinho TavaresAddress 22 Briarwood Lane, Apt. 11, Marlborough, MA 01752-2504Birthdate: 1963 SS # 7388 Sex: M Race: \_\_\_\_\_ Nationalit Brazil

Defense Counsel if known: \_\_\_\_\_ Address \_\_\_\_\_

Bar Number \_\_\_\_\_

**U.S. Attorney Information:**AUSA Colin Owyang Bar Number if applicable \_\_\_\_\_Interpreter: ☒ Yes ☐ No List language and/or dialect: PortugueseMatter to be SEALED: ☐ Yes ☒ No☐ Warrant Requested ☐ Regular Process ☒ In Custody**Location Status:**Arrest Date 8/31/2004☐ Already in Federal Custody as of \_\_\_\_\_ in \_\_\_\_\_☐ Already in State Custody at \_\_\_\_\_ ☐ Serving Sentence ☐ Awaiting Trial☐ On Pretrial Release: Ordered by: \_\_\_\_\_ on \_\_\_\_\_Charging Document: ☒ Complaint ☐ Information ☐ IndictmentTotal # of Counts: ☐ Petty \_\_\_\_\_ ☐ Misdemeanor \_\_\_\_\_ ☒ Felony 1

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: August 31, 2004 Signature of AUSA: Colin Owyang

District Court Case Number (To be filled in by deputy clerk): \_\_\_\_\_

Name of Defendant Neclaudio Tavares Pinho, a/k/a Neclaudio De Pinho Tavares

## U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>42 U.S.C. §408(a)(7)(A)</u>	<u>Social Security Account Number Fraud</u>	<u>1</u>
Set 2	_____	_____	_____
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: \_\_\_\_\_